



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
[www.epa.gov/region08](http://www.epa.gov/region08)

8ENF-AT

SEP 23 2015

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Daniel Holli  
Van Hook Crude Terminal, LLC  
P.O. Box 708  
Belfield, North Dakota 58622

Re: Section 114(a) Information Request for the Van Hook Crude Terminal, Mountrail County, North Dakota

Dear Mr. Holli:

The United States Environmental Protection Agency (EPA) hereby requires Van Hook Crude Terminal, LLC (VHCTL) to provide certain information to determine the Clean Air Act (CAA) compliance status of the Van Hook Crude Terminal (VHCT), Mountrail County, North Dakota.

Pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a), the Administrator of the EPA is authorized to require any person who owns or operates an emissions source to establish and maintain records, make reports, and provide such other information as she may reasonably require for the purposes of determining whether any person is in violation of any provision of the CAA. In order for the EPA to determine whether a violation of the CAA has occurred, you are hereby required, pursuant to Section 114 of the CAA, to provide responses to the following Request for Information (RFI) regarding the companies and facilities listed herein. Accordingly, within thirty (30) calendar days from receipt of this RFI, you must respond to this RFI. See the Instructions and Definitions in Enclosure 1 and the Information Requested in Enclosure 2.

You are required to attach a properly executed Statement of Certification (Enclosure 3) with your response to this RFI. The statement must be signed and dated. This statement certifies that the response submitted to the EPA is true, correct, accurate, and complete, and that the response contains all documents and information responsive to this RFI that are known to you, following a complete and thorough review of all information and sources available to you. You are under an obligation to preserve all documents requested in this letter until you receive further instructions from the EPA.

Failure to provide the required information may result in the initiation of a civil action pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b). In addition, knowingly providing false information in response to this RFI may be actionable under Section 113(c) of the Act, 42 U.S.C. § 7413(c), and 18 U.S.C. §§ 1001 and 1341. The information you provide may be used by the EPA in administrative, civil, and criminal proceedings.

Under Section 114(c) of the Act, 42 U.S.C. § 7414(c), and pursuant to regulations at 40 C.F.R. Part 2, including 40 C.F.R. § 2.301, you are entitled to claim as confidential any information you provide to the EPA which involves trade secrets and is regarded as confidential business information by you. For such information, you may request that the EPA treat such information as confidential. Any such claim for confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that emission data is not considered confidential under Section 114(c). For detailed instructions, please see Enclosure 4 to this letter. Information you supply will be treated as confidential business information to the degree determined to be appropriate according to the regulations. If you fail to furnish a business confidentiality claim with your response to this RFI, the EPA will construe your failure as a waiver of that claim, and the information may be made available to the public without further notice to you.

**YOU MUST SUBMIT ALL RESPONSIVE INFORMATION:** *Whether or not you make a claim of confidentiality.*

Please submit your response to this request to:

U.S. Environmental Protection Agency, Region 8  
Technical Enforcement Program (8ENF-AT)  
Office of Enforcement, Compliance and Environmental Justice  
1595 Wynkoop Street  
Denver, Colorado 80202-1129  
Attention: Laurie Ostrand

If you have any questions regarding this RFI, please contact Laurie Ostrand at, 303-312-6437, or your counsel may contact Virginia Sorrell, at 303-312-6669.

Sincerely,

A handwritten signature in black ink, appearing to read 'Suzanne J. Bohan', with a long horizontal line extending to the right.

Suzanne J. Bohan  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures: 1) Instructions and Definitions  
2) Information Requested  
3) Statement of Certification  
4) Confidential Business Information

cc: The Honorable Mark Fox, Chairman, MHA Nation  
Kari Mossett, Executive Assistant, MHA Nation  
Tex Lone Bear, Director, Natural Resource Division, MHA Nation  
Frankie Lee, Natural Resource Division, MHA Nation  
Jack Craig, Regulatory Affairs Officer, MHA Energy Division  
Blaine Dixon, Compliance Manager, MHA Energy Division  
Edmund Baker, Environmental Director, MHA Nation  
Alfreda Mitre, EPA-Region 8  
Sam Vance, EPA-Region 8  
Laurie Ostrand, EPA-Region 8  
Virginia Sorrell, EPA-HQ  
(w/encl. to ea.)



## **ENCLOSURE 1:**

### **A. INSTRUCTIONS**

1. Provide a separate narrative response to each request and subpart of a request set forth in Enclosure 2 (Information Requested). If VHCTL has no responsive information or Documents pertaining to a particular request, submit an affirmative statement and explanation.
2. Precede each answer with the number of the request to which it corresponds and at the end of each answer Identify the person(s) that provided information that was used or considered in responding to that request, and also Identify each person that was consulted in the preparation of that response.
3. Indicate on each Document produced in response to this RFI, or in some other reasonable manner, the number of the request to which it corresponds. If a Document is responsive to more than one request, this must be so indicated and only one copy of the Document needs to be provided.
4. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
5. Where Documents or information necessary for a response are neither in your possession nor available to you, indicate in your response why such Documents or information are not available or in your possession and identify any source that either possesses or is likely to possess such Documents or information.

### **B. DEFINITIONS**

All terms used in this RFI will have their ordinary meaning unless such terms are defined in the Act, 42 U.S.C. § 7401 *et seq.*; 40 C.F.R. Part 49, Subpart C; and/or other CAA implementing regulations.

1. Begin Construction means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change. The following preparatory activities are excluded: Engineering and design planning, geotechnical investigation (surface and subsurface explorations), clearing, grading, surveying, ordering of equipment and materials, storing of equipment or setting up temporary trailers to house construction management or staff and contractor personnel.
2. Document and Writing and the plural forms thereof means all written, recorded or graphic matters, however produced or reproduced, of every kind and description, pertaining in any way to the subject matter of this action. The terms "document" and "writing" shall include, but are not limited to: any receipts; invoices; shipping records; purchase orders; purchase records; books; pamphlets; periodicals; memoranda (including those of telephone or oral conversations); contracts; correspondence; agreements; applications; financial records; security instruments; disbursements; checks; bank statements; time records; accounting or financial records; notes; diaries; logs; facsimiles (faxes); telegrams or cables prepared, drafted, received or sent;



electronic mail (emails), whether drafted, received or sent; tapes; transcripts; recordings; minutes and notes of meetings; directives; work papers; charts; drawings; prints; flow sheets; photographs; film; computer printouts; advertisements; catalogs; data; reports; plans; protocols; analyses; or any handwritten, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, in VHCTL's possession, custody or control or to which VHCTL has or has had access.

3. Identify means: (1) with respect to a natural Person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business; (2) with respect to a non-natural Person, to set forth its full name, address, legal form (*e.g.*, corporation, partnership), organization, if any, and a brief description of its business; and (3) with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the author and recipient(s), and a description of the substance or the subject matter.
4. Oil means crude oil, or any other hydrocarbon liquids that are or have been transferred at the VHCT.
5. PAAP means Plains Pipeline, L.P., Plains Marketing, L.P., Plains Marketing GP Inc., Plains All American, Plains All American, L.P., Plains All American Pipeline, L.P., Plains All American GP LLC, PAA GP LLC, Plains AAP, L.P., PAA Natural Gas Storage, L.P., and all affiliates, predecessors, successors, and assigns of those entities.
6. Permit means the synthetic minor permit to construct, issued under 40 C.F.R. § 49.151, to the Van Hook Crude Terminal, LLC in Mountrail County, North Dakota, effective September 1, 2012, with Permit #SMNSR-TAT-000044-2012.001.
7. Person means an individual, corporation, limited liability company, partnership, business trust, other association or business entity (including a sole proprietorship), State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States, and any officer, agent, or employee thereof.
8. Tanks means the five storage tanks (two tanks with 6,000 barrel capacity and three tanks with 95,000 barrel capacity) at the VHCT.
9. USDG means U.S. Development Group LLC and all of its affiliates, predecessors, successors, and assigns.
10. VHCTL means Van Hook Crude Terminal, LLC and all of its affiliates, predecessors, successors, and assigns.
11. You and/or Your means VHCTL, and all its agents, servants, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, contractors and others who are in possession, custody or control (actual or constructive) of relevant information that is otherwise available to you, or may have obtained information for or on behalf of, VHCTL.

## **ENCLOSURE 2:**

### **INFORMATION REQUESTED:**

Using the instructions and definitions set forth in Enclosure 1, provide the following information within thirty (30) calendar days from receipt of this RFI:

1. Describe when VHCTL was created, Identify the Persons that created/organized VHCTL, provide all Documents filed by or on behalf of VHCTL with any Secretary of State Office or similar governmental agency as part of organizing VHCTL, and provide copies of all versions from the beginning of 2011 through the end of 2012 of any operating agreements, member-control agreements, bylaws, and articles of organization for VHCTL.
2. Identify the members of VHCTL since its creation, including (1) the dates that each member was designated as a member; and (2) Identify any members who held governance rights, served on a board of governors, or otherwise held management authority beyond that of other members of VHCTL, a description of that authority, and the dates that each such member with disproportional management authority held such authority.
3. Describe the business relationship between USDG and VHCTL, and provide copies of any contracts between U.S. Development Group LLC (USDG) and VHCTL that were executed prior to December 13, 2012.
4. Describe the business relationship between VHCTL and PAAP, and provide copies of any contracts that were executed between VHCTL and PAAP in 2011 or 2012.
5. Provide separate monthly profit and loss statements from October 2011 through and including December 2012 for USDG and VHCTL. If no separate financials exist for VHCTL, so state.
6. Provide all federal tax forms filed for 2011 and/or 2012 for USDG and/or VHCTL.
7. Provide all Documents from October 5, 2011 to December 12, 2012 that refer to or discuss: (1) the Permit; (2) any permit applications or supplemental information for the VHCT that were submitted to the EPA; and/or (3) the timing and/or process of synthetic minor permitting for the VHCT.
8. Provide all Documents related to any decision or discussion of whether to (1) Begin Construction prior to obtaining the Permit, and/or (2) begin operations prior to obtaining the Permit.
9. On what date did USDG and/or VHCTL Begin Construction of the VHCT, or any part thereof?
10. Provide copies of all contracts USDG and/or VHCTL had with other companies for the construction of the VHCT.
11. On what date was Oil first loaded or off-loaded at the VHCT?
12. From the date Oil was first loaded or off-loaded at the VHCT through September 1, 2012, provide the total volumes transferred at the VHCT, total revenues, and total operating costs associated with that period of operation, both collectively and by month.
13. Describe how costs were calculated and billed to clients from the date Oil was first loaded or off-loaded at the VHCT through September 1, 2012.

14. Provide copies of all purchase Documents (i.e. purchase orders) of Oil (volume, price, and date) for volumes transferred at the VHCT prior to September 1, 2012, as well as copies of all sales Documents of the purchased Oil (volume, price, and date) regardless of when it was sold. If no Oil was purchased, so state.
15. List all Oil transfer, shipping, and/or receiving contracts in place with VHCTL and/or USDG on August 31, 2012. For each contract, list the duration, volumes, costs, and other features pertinent to calculating the value of the contract.
16. Provide all Documents that discuss/state the value or potential value of one or more contract identified in response to Request 16 and/or any additional contract(s) acquired by VHCTL and/or USDG by December 12, 2012 (the effective date for transfer of ownership for the VHCT).
17. Provide a copy of the fully executed document that transferred membership interests in the VHCTL from USDG to PAAP (i.e. sales document, contract, or other legal document that effectuated the transfer and/or identified the consideration provided for the transfer).
18. Provide all Documents submitted to the EPA to satisfy the requirements of 40 C.F.R. §§ 60.7(a)(1), (a)(3), 60.113b(a)(5), and 60.115b(a)(1) for the Tanks installed at VHCT and/or to satisfy the requirement of Section II.A.19 of the Permit for the VHCT. For all Documents provided, also proof of mailing to the EPA and/or proof of the EPA's receipt of the Documents.
19. State whether any Oil in trucks was direct loaded to railcars in calendar year 2014 (see Section I.B. of the Permit – "Occasional direct loading from trucks to railcars may occur..."). If yes, provide a description of that process, including any impacts on use of the vapor collection equipment at the rail cars during that process, and provide the total barrels for each month of 2014 of Oil loaded into rail cars from trucks.
20. Identify whether you have withheld any Documents or portions of Documents otherwise responsive to this RFI on grounds of privilege. If so, identify the author of the document, all recipients of the document, the date the document was created, the subject of the document, the request that the document is responsive to, and the grounds for the privilege asserted.



ENCLOSURE 3

STATEMENT OF CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations pursuant to section 113(c)(2) of the Clean Air Act, and 18 U.S.C. §§ 1001 and 1341.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)



## ENCLOSURE 4

### **Confidential Business Information (CBI) Assertion and Substantiation Requirements**

You may assert a business confidentiality claim covering all or part of the information you provide in response to this information request for any business information entitled to confidential treatment under section 114(c) of the Clean Air Act (the Act), 42 U.S.C. § 7414, and 40 C.F.R. Part 2, subpart B. Under section 114(c) of the Act, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in section 114(c) of the Act and 40 C.F.R. Part 2, subpart B. If you fail to furnish a business confidentiality claim with your response to this information request, the EPA will construe your failure as a waiver of that claim, and the information may be made available to the public without further notice to you.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time you submit your response to this information request. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by the EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e); (2) you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; (3) the information is not and has not been reasonably obtainable by legitimate means without your consent; and (4) the disclosure of the information is likely to cause substantial harm to your business’s competitive position. See 40 C.F.R. § 2.208. Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. See 42 U.S.C. § 7414(c); 40 C.F.R. § 2.301(e).

If you assert a claim of business confidentiality in connection with information and documents forwarded in response to this request for information, in accordance with 40 C.F.R. § 2.204(e)(4), the EPA is requesting that you answer the following questions with respect to any information or document for which you assert a claim of business confidentiality:

1. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to your claim.

2. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.
3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
7. Is there any other explanation you deem relevant to the EPA's determination of your business confidentiality claim that is not covered in the preceding questions? If so, you may provide such additional explanation.

Submit your answers to the above questions concurrently with your response to this information request if you have claimed any information as business confidential. See 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline. The EPA will construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1). Please submit your comments to:

Virginia Sorrell  
U.S. EPA Region 8  
1595 Wynkoop Street (8MSU)  
Denver, CO 80202-1129  
(303) 312-6669

Pursuant to 40 C.F.R. § 2.205(c), you are hereby advised that information you submit as part of your answers or comments may be regarded by the EPA as entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), you may assert a business confidentiality claim covering all or part of your response to these questions, as provided in 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in section 114(c) of the Act and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with your comments as a waiver of that claim, and the information may be made available to the public without further notice to you.